

**AREA PLAN COMMISSION OF TIPPECANOE COUNTY
ORDINANCE COMMITTEE
MINUTES OF PUBLIC MEETING**

DATE.....February 4, 2003
TIME.....4:45 P.M.
PLACE.....COUNTY OFFICE BLDG.
20 N. 3RD STREET
LAFAYETTE IN 47901

MEMBERS PRESENT	MEMBERS ABSENT	NON-VOTING	STAFF PRESENT
KD Benson		Michael Smith	Sallie Fahey
Mark Hermodson			Margy Deverall
Gary Schroeder			Kathy Lind
Robert Bowman			Heather Prough
Steve Schreckengast			Jay Seeger, Atty
David Williams			
Dr. Carl Griffin			

KD Benson called the meeting to order.

I. APPROVAL THE MINUTES

Mark Hermodson moved to approve the minutes of the January 7, 2004 meeting. Steve Schreckengast seconded the motion.

Mark Hermodson pointed out a spelling error of a speaker's name on page 5.

The motion carried by voice vote.

II. PROPOSED ORDINANCE USE TABLE AMENDMENT: Regarding veterinary services for animal specialties in the OR zone

Margy Deverall read and explained the staff report and with recommendation of approval.

KD Benson asked whether this would allow a kennel among the high tech buildings.

Sallie Fahey explained that a veterinary clinic could have kennel services but they would all have to be indoor. She stated that the old zone of IR did allow veterinary services by special exception. She pointed out that the current zone of OR not only provides for uses you would find in a research park, but also services for those research facilities and their employees, like child care.

Margy Deverall pointed out that it there are some state regulations regarding soundproofing. She mentioned that since there would be no outdoor use permitted, sound should not be a concern.

Mark Hermodson stated that he did not think this would be a problem, if it were limited to indoor only.

KD Benson mentioned that somehow the animals would still have to go from the car to the building.

Margy Deverall pointed out that had the potential to be just as noisy as children going from the car to the building.

Daniel Teder, PO Box 280, Lafayette, IN, stated that he was available to answer questions.

Mark Hermodson asked if there would be a problem with the indoor only restriction.

Daniel Teder replied that it would not be a problem because they have been indoors all along. He informed the Committee that Purdue Research Park also has restrictive covenants that would further restrict this use. He explained that when they were reconstructing the building they realized the survey was off by 4 feet, which led to the finding that this use was not permitted and the expansion could not occur. He stated that for this particular case, Purdue Research Park and all of the adjacent property owners did not have an objection.

Dr. Carl Griffin asked for confirmation that the proposal was to allow it by right. He asked if the staff saw any long-term ramifications of this in other settings.

Sallie Fahey stated that she could not think of one off hand. She stated that a typical OR area would look similar to a light industrial area because it would have some kind of research component. She said that because services to OR businesses were allowed, staff felt this additional service should also be allowed.

Dr. Carl Griffin asked about indoor boarding facilities.

Sallie Fahey stated that indoor boarding facilities would be allowed only in conjunction with a veterinary clinic.

Steve Schreckengast pointed out that the landlord of the facility would also be involved and if they did not want that type of use they would not lease or sell the land. He asked if this kind of clinic was allowed by right in the GB or NB zone.

Sallie Fahey stated that it was allowed in General Business, Highway Business, Central Business and Agriculture. She said that the Committee would have to make a motion to pass this proposal to the full Commission and then the staff would prepare an ordinance amendment to present.

KD Benson asked if the variety of animals was limited to cats, dogs and other small animals.

Sallie Fahey stated that it would be limited to small-domesticated animals and would also permit such animals as birds or hamsters. She said that it would depend on the clinic whether it treated any exotic animals.

Steve Schreckengast moved to send the **Proposed Ordinance Use Table Amendment: Regarding Veterinary Services for Animal Specialties in the OR Zone** to the full Plan Commission. Mark Hermodson seconded and the motion carried by a vote of 6 yes to 1 no.

Yes Votes

KD Benson

Mark Hermodson

Steve Schreckengast

Robert Bowman

David Williams

Gary Schroeder

No Votes

Dr. Carl Griffin

III. WALLACE TRIANGLE NEIGHBORHOOD PROPOSED ZONING MAP: Area Plan Staff reviews the neighborhood' and its own map proposals.

Kathy Lind stated that she would not read the staff report since it was distributed in the packet not only to APC members, but also to all of the resident homeowners. She said that there were extra copies on the table in case anyone was missed in the mailing. She stated that one of the topics that staff discussed after last month's meeting was what the goals of zoning are and should be. She said that once this list of goals was established, they looked at the three proposals to see which one came closest to achieving the goals. She reviewed the list of goals on the overhead projector. She pointed out that some of these goals contradict each other and some are specific to this neighborhood. She stated that zoning was supposed protect, reflect and project. She explained that it should protect the predominant land use; it should reflect the existing neighborhood land uses and project how the neighborhood sees the future. She said that the goals of minimizing spot zoning and non-conformities are sometimes at odds with each other.

She stated that the next goal encourages the return of converted multi-family buildings to their original single-family home status. She explained that this is a goal that the Ordinance Committee has actively supported over the years. She stated that it is staff's belief that converting multi-family dwellings back to single-family dwellings make the neighborhood stronger and more stable. She said that the next goal to balance individual property owner's rights with the good of the neighborhood could be difficult at times. She explained that the meaning of this goal was to step back and look at the big picture. She stated that the last goal was to mix densities to encourage smart growth. She explained that this goal was less critical to this neighborhood because of its small size. She presented the existing land use map of the neighborhood.

KD Benson explained the procedures for today's meeting.

Kathy Lind reviewed the existing zoning map for the Wallace Triangle Neighborhood. She pointed out that the properties north of State Street and south of Kossuth Street are zoned R1B, the triangle is zoned R3 and there are 2 lots in the southwest corner zoned NB and that these zones have been in place since 1965. She reviewed the current land use map. She stated that there were 5 multi-family conversions and two duplexes in the R1B area. She continued to review the current land use map, pointing out a vacant home, a convent, the United Way office, a group home, an electrolysis business and the NB lots which have single family homes on them. She reviewed the existing non-conformities in the neighborhood, pointing out the 5 apartment buildings in the R1B area, the United Way office in the R1B, the 2 duplexes, the electrolysis business and the 2 single family homes in the NB zone. She stated that all three proposals would eliminate 3 out of the 11 non-conformities. She explained that all three give the electrolysis business an NB zone, and all show residential zones for the two single-family homes on 10th Street, currently in the NB zone. She stated that all the other non-conforming uses would continue to be non-conforming under the new proposal.

She presented and reviewed the neighborhood zoning proposal. She mentioned that all 3 of the proposals show the properties north of State and south of Kossuth Street as the same. She said that the neighborhood's proposal shows R1U zoning for the majority of properties in the triangle and the R2U zones are properties that have multi-family conversions. She pointed out the non-conformities with the neighborhood's proposal and the 8 properties that would not change. She stated that there were a total of 24 non-conforming properties on this proposal and pointed them out.

Steve Schreckengast asked if the non-conforming duplexes were built as duplexes.

Kathy Lind stated that some were built as duplexes and some were converted. She presented the staff's R2U proposal. She stated that from a planning perspective it is the purest ideal for zoning in this area because there are no spot zones. She pointed out the 16 non-conforming properties on that staff proposal and mentioned that this proposal had the fewest non-conforming uses of all the proposals. She explained that the 8 non-conforming uses on the inside are the existing multi-family conversions and because it is all R2U all existing duplexes are permitted. She reiterated that in this proposal the only non-conformities were the multi-family conversions.

She presented a second proposal created by the staff. She explained that this proposal was based on the neighborhood's proposal with a few adjustments from the staff and they would be referring to it as the 'modified neighborhood proposal'. She explained that the neighborhood proposal gave R2U to all multi-family conversions and this proposal gives additional R2U zoning to duplexes that existed in 1965. She stated that there are 20 non-conformities with this proposal, so there were not as many as the neighborhood's proposal, but more than the first staff proposal. She pointed out the location of the non-conformities.

KD Benson asked why 1965 was chosen as a cut off point.

Kathy Lind explained that 1965 was when the old version of the UZO went into effect. She mentioned that the City of Lafayette used to have zoning back in the 1920's but 1965 is the date that is normally used as the beginning of zoning as we currently know it.

Sallie Fahey stated that while the proposal for R2U was the purest of the proposals, the tendency is to maximize whatever is allowed in a zone. She explained that this would cause the area to be looked at as a zone for duplexes. She said that because of this viewpoint, staff decided to abandon the purest point of view in favor of tweaking the neighborhood's proposal.

KD Benson pointed out that it has been R3 for a very long time but there are still a lot of single-family homes in the area.

Sallie Fahey pointed out that since 1965 the number of multi-family and duplexes have increased and overall the neighborhood's condition is worse than in 1965. She mentioned that this cannot all be attributed to the multi-family, but the area is generally in worse condition than in 1965.

Kathy Lind recapped that staff report. She reiterated that in practice, most people expect to be allowed the maximum use for that zoning district regardless if the lot is big enough. She stated that because of this the R2U proposal does not encourage conversions to return to single-family homes. She said that the staff is recommending the modified neighborhood proposal because it creates less non-conformity than the neighborhood's proposal and is more fair because it grants R2U zoning to the duplexes that were there prior to 1965.

Steve asked how many non-conformities the modified neighborhood proposal would have compared to the neighborhood's plan.

Kathy Lind stated the modified neighborhood proposal has 20 non-conformities and the neighborhood's has 24.

KD Benson pointed out that there were 16 non-conformities on the R2U proposal.

Steve Schreckengast stated that he would disregard the R2U proposal from consideration.

KD Benson asked about the thought process behind the modified neighborhood proposal.

Kathy Lind stated that staff started with the neighborhood map and added 4 R2U zones because those properties had duplexes back in 1965.

Sallie Fahey stated that the neighborhood map took all multi-family structures down to an R2U zone.

KD Benson stated that in a rezone situation the existing uses are grandfathered in. She clarified that multi-family uses can continue as multi-family even if the zone is changed to another zone.

Kathy Lind stated that was correct and the property can even be sold with those rights.

KD Benson stated that the only stipulation was that if the building were destroyed it could not be replaced with an new multi-family building.

Kathy Lind stated that was correct if it was damaged by 50% of its current market value.

Sallie Fahey stated that the ordinance was written as 50% of its replacement cost. She explained that older buildings built with superb craftsmanship would work in favor of higher replacement costs.

Steve Schreckengast asked Opal Kuhl if she has ever denied a building permit for something that was destroyed based on the zoning.

Opal Kuhl stated that there have been one or two over the years but it is not very common.

Steve Schreckengast asked about the outcome of those situations.

Opal Kuhl stated that they rebuilt only what was allowed.

Steve Schreckengast moved to accept the modified neighborhood proposal as the starting point for the Committee. Mark Hermodson seconded and the motion carried by voice vote.

KD Benson asked Kathy Lind to point out the 4 R2U lots that the staff added to the neighborhood map.

Kathy Lind pointed them out on the map.

Daniel Teder, PO Box 280, Lafayette, IN, stated that he represented Bud and Martha Sanders who owned the property at 612, 614 and 616 and 620, 622 and 622½, which are both 3-unit structures on South 10th Street. He pointed out that there are R3 structures in this area and by down-zoning them to R2 it will decrease the value of the properties, they can not rebuild the R3 and their insurance will not give them 100% coverage. He presented a handout to the Committee. He said that they agree with the staff's modified neighborhood proposal, with one exception. He said that although the Sanders' have 2 separate properties that are R3 in nature, it is more appropriate to leave the structure at 612, 614 and 616 South 10th Street as R3. He explained that this structure was destroyed in 1995 by fire, it was zoned R3 at the time and rebuilt as R3. He described the layout of the units. He pointed out that under the APC guidelines this should remain R3. He said that both of these units are in excellent shape, the Sanders' actually live in one of the units and if it is downzoned it would lose value. He referred to the pictures in the handout to emphasize the good condition of the property. He pointed out that the City of Lafayette has strict codes for rental units at both the occupancy and on-going upkeep stage. He stated that although the City of Lafayette also has strict codes for single-family homes, they are only for the occupancy stage. He stressed that there are very few code for the enforcement, maintenance and upkeep of a single-family owner occupied home. He suggested that if there were a strong homeowners association that worked well with the City, that would help with the enforcement of the multi-family units but not the R1. He explained that all of the newer R1 areas have covenants and restrictions that require homeowners associations who, in turn enforce all of that. He explained that it would be easier for the neighborhood to maintain a multi-family than it would a single-family. He requested that they retain the property at 612, 614 and 616 as an R3 zone.

Steve Schreckengast and Michael Smith asked for clarification about which properties he was referring.

Daniel Teder stated that he was referring to the gray buildings that were 612, 614 and 616. He stated that the proposal changes both lots to R2U.

Steve Schreckengast asked when the 2-unit at 620, 622 and 622½ was changed to a 3-unit.

Daniel Teder stated that change occurred in 1984. He said that prior to that the building was vacant for 5 years and used only for storage and therefore not well maintained. He stressed that when the Sanders' converted it to a 3-unit they cleaned up and improved the property. He reiterated that the property at 620, 622 and 622½ was an R3 in an R3 but was not originally built that way and therefore more difficult to fit into the APC guidelines.

David Williams stated that he did not have a problem keeping one of them R3, but not both.

Daniel Teder pointed out that if both properties were R3 and both were destroyed, they could be rebuilt as one large unit and that would not be appropriate.

Sallie Fahey asked for clarification that the building at 612-616 actually burnt to the ground. She said that she thought that there was a fire and a lot of damage and then it was remodeled and improved.

Daniel Teder stated that was correct. He said that he did not mean to infer that it burned to the ground.

Sallie Fahey pointed out that it was remodeled as an R3 and not originally built as an R3.

Daniel Teder stated that it was more that remodeled. He stated that it was remodeled, repaired and another unit added.

Sallie Fahey agreed.

Steve Schreckengast moved that the property at 612, 614 and 616 South 10th Street remain R3U. David Williams seconded the motion.

Gary Schroeder agreed with that motion.

Steve Schreckengast explained the procedure of that motion. He asked how big that lot was.

Daniel Teder stated that it was listed at 50 feet wide, but he thinks it is slightly bigger than that.

Steve Schreckengast asked for confirmation that by leaving one property R2 and changing the other to R3, that would prohibit someone from building one huge multi-family complex. He stated that if the entire structure were destroyed it probably would not be able to be rebuilt as an R3 with out some variances.

Daniel Teder agreed.

John Downey, 520 South 10th Street, Lafayette, IN, stated that if the multi-family building on the 50-foot lot was destroyed and rebuilt, it would require multiple variances. He said that to grant those variances would be for no other reason than economic gain. He pointed out that that lot did not support an R3 unit and barely supported an R2. He stated that they had hoped to get an R1 zoning so that the single-family homes would stop being converted to multi-family. He mentioned that to grant an R3 is to grant something that can't be realized.

Steve Schreckengast stated that he disagreed. He said that it could support R3 because that is what is already there. He stated that in reality it is supporting it right now.

John Downey stated that it is supporting it right now, but it does not meet the requirements of the ordinance. He said that in order to meet the parking and green space requirements; they would have to be one-bedroom units to be an R3.

Steve Schreckengast stated that a lot of houses do not meet the setback requirements.

John Downey agreed. He stated that a lot of houses in this neighborhood would have to be averaged in order to meet the requirements.

Steve Schreckengast stated that this is a circumstance where the private property rights have to blend with the neighborhood rights. He explained that this gives some relief to the Sanders and still does not allow them to build one large building.

John Downey stated that he does not need an R3 zone to maintain what he already has.

Steve Schreckengast agreed.

KD Benson asked if this could be rebuilt as is if the motion to retain it R3 passes.

Sallie Fahey stated that he could not rebuild the same exact building without variances.

Jim Noonan, 618 South 11th Street, Lafayette, IN, stated that he was the president of the neighborhood association. He said that when this process was started, everyone cautioned them on early compromise. He pointed out that the only way to do this as respectful neighbors is to compromise. He said that there has been compromise in the many, many meetings they have held. He stated that this neighborhood should have never been R3. He said that it does not fit anything about R3 and the lot sizes are not even close. He reiterated that there never should have been R3 in this neighborhood and it was a mistake that should be corrected. He mentioned that while trying to fix these mistakes, many people realize that neighbors need to be neighbors and that compromise is needed. He stated that he and many others have tried to compromise. He said that he was grateful that this map has gotten as far as it has. He pointed out that there are very good landlords that were not included in the first map, but are now and that is due to compromise. He stated that the biggest fear in the neighborhood is that these 2 properties that are side by side could be replaced by one huge building.

Steve Schreckengast stated that is not what they are proposing.

Jim Noonan stated that he understood they were not proposing that, but it could happen.

Steve Schreckengast asked why he was talking about it.

Jim Noonan stated that they did not have to talk about it because it is already there. He reiterated that this area never should have been R3 to begin with. He pointed out that an R3 somehow occurred and a huge complex could also somehow occur. He stated that this could happen because the Sanders, even though they are good landlords, have two properties. He said that he is against the Sanders property retaining an R3 and that it is a compromise on both sides to change it to R2. He mentioned that in the past the Sanders have agreed to an R2 and all of a sudden they are lobbying for an R3. He stated that the whole point of this process is to have a neighborhood that is safe and fair. He said that that two properties right next to each other zoned R3 does not protect this neighborhood and never should have been R3 to begin with.

KD Benson pointed out that the Committee is only considering one of those lots as an R3.

Brice Culverhouse, 622 S. 11th Street, Lafayette, IN, stated that he was a witness to the fire at 612, 614 and 616 and the structure did not even come close to burning to the ground. He said that the Lafayette Fire Department did an excellent job of getting it out quickly. He stated that originally it was a 2-unit house that may or may not have been converted from a single-family. He said that after the fire the landlord built a horizontal addition that is not aesthetically pleasing and made it look like a completely different home. He pointed out that it could have been multi-story and huge. He explained that they are trying to protect the neighborhood from stretching the current zone out as much as possible.

Jon Huber, 925 State Street, Lafayette, IN, stated that he was in favor of retaining the R3 zone on the Sanders property. He said that the members of the neighborhood association own less than 10-20% of the properties in the area. He said that there are less than 20 people present, most of whom are couples. He pointed out that the neighborhood association is trying to change things that they do not own. He stressed that everything that they are trying to change they have not paid for. He said that the Sanders have worked hard and their rights should be protected.

James Werner, 615 South 10th Street, Lafayette, IN, stated that he lived directly across the street from the Sanders' property. He said that he feels his own property is not zoned correctly. He referred to the earlier comment that the horizontal addition was not aesthetically pleasing and said that was simply not true. He pointed out that he lives directly across from this property and often looks at it, and it is one of the nicest properties in the area. He stated that some of the houses from the 1930's do not hold a candle to the Sanders property. He said that they have maintained the original integrity of the house and it is very beautiful. He stated that the Sanders were criticized at an earlier meeting for having plastic flowers in their yard, and they replied that they were silk. He mentioned that he was an artist and did not think that anyone should be

making aesthetic judgments. He stated that he was in support of any of the existing R3s that have been there for a long time to remain R3.

Bruce Bottum, 1142 State Street, Lafayette, IN, apologized for comments he made at the last meeting. He said that at the last meeting he made some very unfortunate comments and it is a privilege to be able to speak. He stressed the privilege that this country allows in speaking and stated that he did not abide by that privilege. He said that he was not kind to the chairperson, the City planning committee or to those who opposed his viewpoint. He said that it is a privilege to be able to gather here with a representative government and be heard. He stated that R2U has no business being zoned R3 from a completely logical viewpoint. He referred to the changes that have happened to Chauncy Hill over the past 60 years as a complete degeneration of a residential neighborhood and a city. He stated that his second concern was that the Plan Commission was trying to keep R3 in order to cover up past mistakes. He mentioned that on the property next to his there was a 4-unit home in an R1U zone. He questioned the lack of enforcement. He pointed out that the Committee and the Commission only write the plans and he questioned who enforced them. He stated that another concern he has is the lack of parking. He asked who would be the enforcer if someone decided they wanted to have a business in one of these units. He said that this is the beginning of further commercialization for this area. He stated that he was violently opposed to this zoning.

Stephen Wien, 619 South 10th Street, Lafayette, IN, stated that he lived across the street from the property at 620, 622 and 622½. He referred to the earlier comment that there were only 20 people present from the homeowners association and pointed out that the petition presented at the last meeting had over 70 signatures. He said that his concern was that if the Sanders sell or move there could very easily be a fourth family just by putting up a wall and no one would know it until it is done. He stressed that if something like that happened there would be no recourse because it is zoned R3.

Steve Schreckengast asked Opal Kuhl if another unit could be added without additional parking. He asked if there were any safeguards against adding more units.

Opal Kuhl stated that a building permit would be needed and a building inspector would have to check it out. She said that if they wanted to add another unit they would need to meet the parking and other requirements of the zoning ordinance.

Steve Schreckengast stated that there are safeguards against this happening.

KD Benson stated that all of that could happen without the neighbors knowing about it.

Steve Schreckengast said that would be the same as a single-family homeowner creating a duplex without anyone knowing about it.

KD Benson stated that building permits are published in the paper.

Steve Schreckengast asked if a 4-unit could be made without anyone knowing about it.

Opal Kuhl stated that is not supposed to happen because they would have to meet the parking requirements and all the requirements for the kitchen, bathroom and bedroom. She pointed out that it could happen without approval if all the work was internal. She said that once the jurisdiction becomes aware, they would still have to meet all the requirements and come up to code.

Steve Schreckengast pointed out that there are safeguards in place.

Stephen Wien pointed out that it could happen before anyone finds out and then it is already there.

Steve Schreckengast pointed out that the fourth unit would not have been grandfathered and therefore would have to meet all the requirements of the ordinance.

Stephen Wien asked if the jurisdiction would make them take the fourth unit out.

Opal Kuhl stated that they have occasionally made someone take out an addition.

Stephen Wien asked if that happened very often.

Opal Kuhl stated that it did not happen very often, but it was not very often that an addition goes in without them knowing about it.

A member of the audience asked why there was a lot at the end of State Street, zoned R1U, and proposed to R2U that currently had 4 tenants living in it.

Steve Schreckengast stated that it was currently zoned R3U.

Michael Smith stated that audience member was referring to a different house.

Opal Kuhl stated that if he were referring to a specific house, he would need to call the City Engineer's Office and they would investigate.

A member from the audience said that the question was not answered. He asked why that house on State Street was zoned R1U.

Opal Kuhl stated that they have been there for a long time and she was not sure when they went in.

A member from the audience stated that was exactly his point, that there was no enforcement.

Stephen Wien said that his point was that if a fourth unit appears, it would be very hard to get rid of.

KD Benson stated that this discussion would be continued to the February 17, 2004 meeting.

Mark Hermodson asked if the motion would still be on the floor when the next meeting starts.

Jay Seeger replied affirmatively.

IV. CITIZEN COMMENTS

V. ADJOURNMENT

Mark Hermodson moved to adjourn the meeting. David Williams seconded and the motion carried by voice vote.

KD Benson stated that the next meeting on this subject would be February 17, 2004 at 4:30 p.m.

Respectfully submitted,



Michelle D'Andrea
Recording Secretary

Reviewed by,

A handwritten signature in cursive script, reading "Sallie Dell Fahey". The signature is written in black ink on a light-colored background.

Sallie Dell Fahey
Executive Director